

STATE OF MONTANA
DEPARTMENT OF JUSTICE
AGENCY LEGAL SERVICES BUREAU

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NOTICE
To Montana Licensed Wholesalers

July 25, 2006

Topic: **Sale of "Blunt Wraps"**--Sales of **cigarette wrappers or papers made of or containing tobacco**, known generally as "**blunt wraps**," have been on the rise. These tobacco products are wholly or partially composed of tobacco and are intended to be used as the wrapper for making roll-your-own cigarettes. As with many newer products, there is confusion in the marketplace about the legality of selling blunt wraps. This notice makes clear to all Montana licensed wholesalers that in Montana blunt wraps fall within the legal definition of cigarettes (see below) and therefore must be certified and listed on the Montana Tobacco Product Directory before they may legally be sold.

Notice: **"Blunt wraps" are cigarette wrappers or papers made of or containing tobacco that are intended to be used as the wrapper for making roll-your-own cigarettes.** "Blunt wraps" may not be sold in Montana unless the particular brand of blunt wrap and its manufacturer have been certified by the manufacturer and listed on the Montana Tobacco Directory at <http://doj.mt.gov/consumer/business/tobaccosales.asp>.

"Blunt wraps" containing tobacco in any amount (as opposed to paper tubes, rolling papers, or other non-tobacco products used for making cigarettes) clearly meet the definition of "roll-your-own" and consequently are considered cigarettes by law.

As of July 25, 2006, there are no brands or styles of blunt wraps listed on the Montana Tobacco Product Directory. Therefore, wholesalers must stop selling blunt wraps and refrain from selling blunt wraps in the future, unless and until any such product's brand and manufacturer have been certified and listed on the Directory.

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The Montana Department of Justice will allow a reasonable period of time following this notice before commencing enforcement actions to give wholesalers time to recall any blunt wraps shipped to Montana for sale in violation of the applicable laws. However, any blunt wraps held for sale in Montana after **August 31, 2006**, that are not listed on the Montana Tobacco Directory will be considered contraband in violation of Montana law, and the Department of Justice will pursue all available remedies in enforcement.

Legal Provisions: Montana law, at Montana Code Annotated, Section 16-11-402(4) (emphasis added), defines "cigarette" as:

any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains (a) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or (b) tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or (c) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in clause (a) of this definition. The term **"cigarette" includes "roll-your-own"** (i.e., **any tobacco which, because of its appearance, type, packaging, or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes**). For purposes of this definition of "cigarette," 0.09 ounces of "roll-your-own" tobacco shall constitute one individual "cigarette."

Pursuant to MCA § 16-11-505(2), it is unlawful for any person to "sell, offer for sale, or possess for sale in this state cigarettes of a tobacco product manufacturer or brand family not included in the directory." The listing process requires Tobacco Product Manufacturers, including Participating Manufacturers under the MSA ("PMs") and Non-Participating Manufacturers ("NPMs"), to certify the cigarette brands they make that they intend to sell in Montana. The form Tobacco Product Manufacturer Certificate of Compliance and instructions can be found on the Department of Justice website at www.doj.mt.gov/consumer/business/tobaccosales.asp.

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Penalties and remedies for violations of this provision are set forth in MCA § 16-11-509, and include civil penalties, suspension/revocation of your license, seizure and forfeiture of the tobacco product, surrender of profits/proceeds from the sale, and an award of attorneys fees and costs to the Department of Justice.

Please call me or e-mail if you have questions.

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